

WA Department of Ecology

# Human Health Criteria Implementation

Internal Guidance

Water Quality Program  
11-17-2016

Rule/regulation	Topic and EPA Action	Effective dates	Permitting Guidance
WAC 173-201A-240	All <b>human health criteria and associated criteria language</b> in Washington's new rule <i>that EPA approves</i>	Effective now.	See <b><i>PermitCalc update (available after November 30, 2016)</i></b> . This update will distinguish Ecology approved and EPA promulgated values on the WQ criteria tab
WAC 173-201A-420	<b>Variance language:</b> approved with one sentence removed – little to no effect on how it is used.	Effective now	See Permit Writers Manual ( <b><i>PWM</i></b> ) <b><i>draft guidance</i></b> once complete. This section is still under development
WAC 173-201A-460	<b>Intake credits</b> (not acted upon – not a water quality standard)	Effective now	See <b><i>PWM draft guidance</i></b>
WAC 173-201A-420	<b>CSO treatment</b> plants (not acted upon – not a water quality standard)	Effective now	See <b><i>existing PWM</i></b> language for CSO and stormwater discharges (Chapter 7.4.4, Table 17, Chapter 7.4.5, and Appendix C.6.1)
WAC 173-201A-510(4)(a)(i)	<b>Compliance schedules for aquatic life uses:</b> EPA has not yet acted on this – needs to do ESA review prior to approval/disapproval	Not in effect. Old language with 10-year maximum time limit continues to apply.	Make decisions on the basis of limits in question (aquatic life or human health criteria)
WAC 173-201A-510(4)(a)(ii)	<b>Compliance schedules for all other uses:</b> approved	Effective now	Make decisions on the basis of limits in question (aquatic life or human health criteria)
New EPA regulation	<b>New human health criteria and footnotes</b> (this includes implementation language in the footnotes) promulgated in this new federal regulation. These federal criteria replace the chemical criteria EPA disapproved in the WA rule, plus EPA added criteria for bis(2-chloroisopropyl)ether.	Criteria and footnotes that EPA promulgates will be effective 30 days after publication in the federal register (unless EPA specifies differently in their new regulation). That publication will probably occur in about 2 weeks, thus probably effective in about 6 weeks.	See <b><i>PermitCalc update (available after November 30, 2016)</i></b> . This update will distinguish Ecology approved and EPA promulgated values on the WQ criteria tab

**NPDES Permits must be based on the water quality standards applicable on the date of permit issuance (40 CFR 122.43 (b))**

Permit Status as of 11/15/16	Transition	Comment
1. Entity review not begun	Use new criteria and implementation tools to determine reasonable potential (RP) and effluent limits	
2. Entity review on-going	Communicate with entity and follow 1.	
3. Entity review complete (prior to public notice)	Re-evaluate RP for all human health criteria <ul style="list-style-type: none"> <li>• If no RP – inform entity, document analysis in fact sheet, proceed to public notice.</li> <li>• If yes RP – inform entity, recalculate effluent limits using new criteria (both approved WA criteria and EPA promulgated), repeat entity review</li> </ul>	
4. Public notice ongoing	Re-evaluate RP for all human health criteria <ul style="list-style-type: none"> <li>• If still no RP – consider the chemicals detected and permit specifics to determine whether to continue with public notice or pull and repost. If continuing, document new analysis in the response to comments</li> <li>• If yes RP or if effluent limits or loadings increase – pull and repeat public notice with a revised permit and fact sheet</li> <li>• If yes RP and limits or loadings decrease – see 1<sup>st</sup> bullet logic</li> </ul> Revisions to draft permit effluent limits as a result of the RP reevaluation should be addressed in the fact sheet. In the event of no effluent limit revision, indicate that the RP reevaluation occurred in the fact sheet summary; then, include the spreadsheet in the calculation appendix.	See PWM Chapter 15.11  Do not issue final permit until after the effective date of new EPA criteria (30 days after publication of EPA rule in Federal Register)
5. Public notice complete (prior to permit issuance)	Communicate with the entity and follow 4. logic in decision to repost for public comment.	
6. Permit issued	No action necessary.	See PWM Chapter 2.4

### TMDL Management Plan once new water quality standards become effective

TMDL Status	Transition Solution
1. TMDL formally approved.	<ul style="list-style-type: none"> <li>• Keep TMDL in place, even if criteria in the new rule are different</li> <li>• Continue implementation measures</li> <li>• Monitor compliance with TMDL allocations</li> <li>• Compare TMDL targets to new criteria, but not required to change targets</li> <li>• Water body will be placed in category 4a: Has a TMDL - in accordance with the 303(d) listing policy</li> <li>• As effectiveness monitoring is done on the TMDL it will include analysis of the new criteria</li> </ul>
2. TMDL not yet approved, but field work completed and report may or may not be completed	<ul style="list-style-type: none"> <li>• Report will have to be updated to include analysis of the new criteria</li> <li>• Proceed with submittal of TMDL if the analysis shows that new criteria will be met</li> <li>• If new criteria will not be met then the TMDL will need to be amended to address new criteria</li> </ul>
3. TMDL study in progress and field work begun but not completed	<ul style="list-style-type: none"> <li>• Continue study and include new criteria</li> <li>• Analysis should be based on new criteria</li> <li>• Develop monitoring plan that incorporates new criteria</li> </ul>
4. TMDL study planned and no field work yet begun	<ul style="list-style-type: none"> <li>• Include new criteria in study design and sampling and drop old criteria</li> </ul>
5. 303(d) listed but no priority set for doing study	<ul style="list-style-type: none"> <li>• Retain on 303(d) list</li> <li>• Continue to scope and schedule projects. When projects are selected for work, the project will be treated the same as in (4) above</li> </ul>
6. Effectiveness monitoring for TMDLS	<ul style="list-style-type: none"> <li>• Each TMDL will do effectiveness monitoring after implementation of actions</li> <li>• Effectiveness monitoring associated with the TMDL will be based on the monitoring strategy in the TMDL. In order to determine the TMDL is meeting water quality standards, monitoring will have to show the waterbody is meeting most current criteria</li> <li>• If new criteria will not be met then the TMDL will need to be amended to address new criteria</li> </ul>